

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

MANUEL RAMIREZ,

Plaintiff.

V.

STATE OF WASHINGTON and DOE,

Defendants.

NO: 4:14-CV-05123-RMP

ORDER DENYING MOTIONS

BEFORE THE COURT are Plaintiff's Motion to Arrest Judgment, ECF No.

19, and his Motion to Vacate Judgment, **ECF No. 20**, noted for hearing on August 17, 2015. Plaintiff, a prisoner at the Clallam Bay Corrections Center, is proceeding *pro se* and *in forma pauperis*; Defendants have not been served. The Motions were considered without oral argument on the date signed below.

17 By Order filed June 29, 2015, the Court dismissed Mr. Ramirez's Amended
18 Complaint for failure to state a claim upon which relief may be granted, but
19 without prejudice to challenging the fact or duration of his confinement in
20 appropriate state court and habeas proceedings, ECF No. 17. Plaintiff appears to

1 assert that the dismissal of his complaint constitutes "treason," because he claims
2 that "terrorist [sic] were involved in the case." These assertions are without merit.

3 In addition, the concept of "arrest of judgment" is applicable in the criminal
4 context. *See Fed.Rule Crim.Proc. 34.* This was a civil rights action pursuant to 42
5 U.S.C. § 1983. Therefore, **ITS IS ORDERED** Plaintiff's Motion to Arrest
6 Judgment, ECF No. 19 is **DENIED as moot.**

7 To the extent Plaintiff's Motion to Vacate Judgment can be construed as a
8 Motion to Alter or Amend a Judgment under Fed. R. Civ. P. 59(e), he has failed to
9 present any facts warranting alteration or amendment. Plaintiff asserts that he is in
10 prison, his life is in danger, and he has important issues he needs to address to the
11 court. Nevertheless, although granted the opportunity to do so, Plaintiff did not
12 present any facts in his Amended Complaint which would "plausibly give rise to
13 an entitlement to relief." *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009).

14 A motion under Federal Rule of Civil Procedure 59(e) "should not be
15 granted, absent highly unusual circumstances, unless the district court is presented
16 with newly discovered evidence, committed clear error, or if there is an intervening
17 change in the controlling law." *McDowell v. Calderon*, 197 F.3d 1253, 1255 (9th
18 Cir. 1999) (*en banc*) (*quoting Orange St. Partners v. Arnold*, 179 F.3d 656, 665
19 (9th Cir. 1999)); *see also* Fed. R. Civ. P. 60(b). Here, Plaintiff has not presented
20 the type of newly discovered evidence or other "extraordinary circumstance" that

1 would warrant disturbing the judgment. *See Maraziti v. Thorpe*, 52 F.3d 252, 254-
2 55 (9th Cir. 1995). Therefore, **IT IS ORDERED** that Plaintiff's Motion to Vacate
3 Judgment, **ECF No. 20**, is **DENIED**.

4 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
5 Order and forward a copy to Plaintiff. The Court certifies that an appeal of this
6 decision would not be taken in good faith. The file shall remain closed.

7 **DATED** this 20th day of August 2015.

8
9 s/ Rosanna Malouf Peterson
10 ROSANNA MALOUF PETERSON
11 Chief United States District Court Judge
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